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Attorney Docket No. 61384/016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: Naresh Vig
Group Art Unit: 3629

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| Application of | : | Gerald I. KESTENBAUM |
| Serial No. | : | 09/587,525 |
| Filing Date | : | June 5, 2000 |
| Entitled | : | APPARATUS AND METHOD FOR PROVIDING BUILDING MANAGEMENT INFORMATION |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

| | |
|---|-----------------------|
| FACSIMILE TRANSMISSION CERTIFICATE | |
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| <i>[Signature]</i> Signature | <i>2/2/05</i> Date |

DECLARATION OF GERALD I. KESTENBAUM UNDER 37 C.F.R. § 1.131

Sir:

I, Gerald I. Kestenbaum, hereby declare as follows:

1. I am the inventor of the above-identified patent application. I am familiar with the prosecution of this patent application in the PTO including the most recent Office Action dated September 10, 2004, which is a final Office Action. I previously submitted a Declaration under 37 C.F.R. § 1.132 during the course of prosecution of the above-identified patent application.

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2. In the final Office Action dated September 10, 2004, the Examiner rejected the claims in the above-identified patent application relying principally on a newly cited publication in the Jerusalem Post dated January 30, 2000. According to the Examiner, this article fully anticipates the invention set forth in claim 98 which is the only independent claim in the above-identified patent application. The purpose of this Declaration is to demonstrate that I conceived and diligently proceeded to reduce to practice my invention which is set forth in claim 98 and the other claims of the above-identified patent application prior to the January 30, 2000, publication date of this article in the Jerusalem Post.

3. At least as early as September 14, 1999, I conceived of a computerized collaborative real estate management system for a building which permits the exchange of information among tenants, staff, and a building manager, and which permits system task management relating to the operation of the building. My conception of this computerized collaborative real estate management system included the various features which are set forth in claims 98-108 of the above-identified patent application. This invention I referred to as the "Building-Link" system. Attached hereto as Exhibit A is a document dated September 14, 1999, which I prepared. Exhibit A is a fully elaborated description of the functions of the Building Link system and the various modules and structures needed for its operation. I prepared Exhibit A in order to obtain proposals from software programming companies to write the software for the Building-Link

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system. I mailed this description to various companies in the period of September 15 to about October 15, 2000.

4. After receiving several proposals from various companies, I engaged Synergy Corporate Technologies to write the software for my invention based on the description I provided. Attached hereto as Exhibit B are copies of a signed contract with Synergy, a Statement of Work, and a projected timeline for completion of work. All of the documents of Exhibit B are dated October 15, 1999. The projected timeline shows that the Building Link system was expected to be completed by January 14, 2000.

5. During the period of October 15, 1999, to the middle of January, 2000, employees of Synergy worked on my Building-Link system substantially continuously. I stayed in touch with these employees during this period via conference calls and meetings to review their work and to make sure the project stayed on schedule and was completed to my satisfaction. Attached hereto as Exhibit C is a document dated November 15, 1999, prepared by Synergy. The document of Exhibit C shows the database structure/specifications map for the Building-Link project. Exhibit C shows some of the progress being made on the project one month after the contract with Synergy was signed.

6. The invention described in claims 98-108 of the above-identified patent application was actually reduced to practice no later than December 16, 1999. As evidence thereof, attached hereto as Exhibit D are some screen shots of a Beta Version of the Building-Link system which I tested. This Beta Version was installed and running in

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a computer that I logged into. I tested the various modules of the Beta Version of Building-Link system on December 16, 1999. Exhibit D shows the screen shots that I made of the Beta Version that I tested on Dec. 16, 1999. My testing of the Building-Link system on December 16, 1999, convinced me that my invention would work for its intended purpose as specified in claims 98-108 of the above-identified patent application.

7. Based on the completion of the Beta Version and my testing of it on December 16, 1999, Synergy prepared the final version of the Building-Link system and completed the project on or about January 14, 2000, as scheduled. Thereafter, I engaged a patent attorney who prepared and filed a provisional patent application in the PTO on February 24, 2000, for the Building-Link system.

8. Based upon the above, it is clear that I conceived the invention of the Building-Link system as described in claims 98-108 no later than September 14, 1999, and that I proceeded with due diligence to actually reduce this invention to practice by no later than December 16, 1999. Thus, my actual reduction to practice is about a month and one-half prior to the January 30, 2000 publication date of the article in the Jerusalem Post which the Examiner cited in the final Office Action dated September 10, 2004.

9. I further declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application

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or any patent issued thereon.


Gerald I. Kestenbaum

Date: February 1, 2005

Attachments: Exhibits A, B, C, D

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